

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARTIN J. CLEARY M.D.,
RESPONDENT.

:
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:
:
:

FINAL DECISION AND ORDER

0005755

Division of Legal Services and Compliance Case No. 16 MED 343

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Martin J. Cleary, M.D.
1070 Dimmicks Road
Shullsburg, WI 53586

Wisconsin Medical Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Medical Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Martin J. Cleary, M.D. (DOB August 25, 1956), is licensed by the State of Wisconsin to practice medicine and surgery, having license number 64855-20, first issued on November 20, 2015, with registration current through October 31, 2019. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1070 Dimmicks Road, Shullsburg, Wisconsin 53586.

2. At all times pertinent to this matter, Respondent was licensed as a physician in Illinois, and practiced family medicine at a healthcare facility (FHN) located in Freeport, Illinois.

3. On May 30, 2015, Respondent relinquished his hospital privileges and resigned his employment with FHN.

4. On December 17, 2015, the Illinois Department of Financial and Professional Regulation (IL DFPR) filed a disciplinary complaint against Respondent alleging he engaged in an inappropriate relationship with a patient.

5. Prior to obtaining his Wisconsin medical license, Respondent had an interview before the full Board and disclosed the relationship at issue in the pending Illinois investigation.

6. The Board issued Respondent a medical license on November 20, 2015.

7. On March 25, 2016, as part of a negotiated resolution of the above-referenced disciplinary complaint, the IL DFPR issued a Consent Order (Illinois Order) whereby Respondent permanently relinquished his Illinois medical license.

8. The Illinois Order constitutes a final adverse determination against Respondent's license to practice medicine and surgery in that jurisdiction.

9. Respondent informed the Department and the Board that he was placing his Illinois license on inactive status, but he did not properly report the Illinois Order to the Board.

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 448.02(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Martin J. Cleary, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(c) by having any credentialing pertaining to the practice of medicine and surgery or any act constituting the practice of medicine and surgery become subject to adverse determination by any agency of this or another state, or by any federal agency or authority.

3. By the conduct described in the Findings of Fact, Respondent Martin J. Cleary, M.D., engaged in unprofessional conduct as defined by Wis. Admin. Code § Med 10.03(3)(a) by failing, within 30 days, to report to the board any final adverse action taken against the licensee's authority to practice medicine and surgery by another licensing jurisdiction concerned with the practice of medicine and surgery.

4. As a result of the above conduct, Martin J. Cleary, M.D., is subject to discipline pursuant to Wis. Stat. § 448.02(3).

ORDER


1. The attached Stipulation is accepted.
2. Respondent Martin J. Cleary, M.D., is REPRIMANDED.
3. Within 90 days from the date of this Order, Martin J. Cleary, M.D., shall pay COSTS of this matter in the amount of \$1,477.00.
4. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:

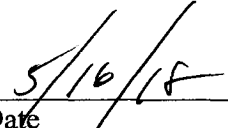
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. In the event Respondent violates any term of this Order, Respondent's license (no. 64855-20), or Respondent's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Board may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

6. This Order is effective on the date of its signing.

WISCONSIN MEDICAL EXAMINING BOARD

by: 
A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARTIN J. CLEARY, M.D.
RESPONDENT.

STIPULATION

0005755

Division of Legal Services and Compliance Case No. 16 MED 343

Respondent Martin J. Cleary, M.D., and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Holly Courtney.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Medical Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

Stipulation

In the matter of disciplinary proceedings against
Martin J. Cleary, M.D., Case No. 16 MED 343

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent or Respondent's attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

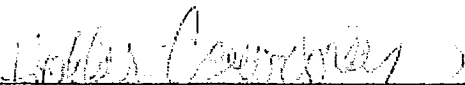
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Martin J. Cleary, M.D., Respondent
1070 Dimmicks Road
Shullsburg, WI 53586
License No. 64855-20

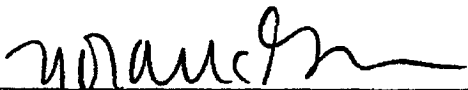
4/16/18

Date



Holly Courtney, Attorney for Respondent
Michael Best & Friedrich LLP
1 S. Pinckney Street, Suite 700
Madison, WI 53703

Date



Yolanda McGowan, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

4/23/18

Date